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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,929	02/05/2001	Stephen Clifford Goss	13-10-19-4-3-4-16-9-10	3243

7590 07/19/2004  
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434 Maple Street  
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EXAMINER

BEHULU, ALEMAYEHU

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/777,929

Applicant(s)

GOSS ET AL.

Examiner

Alemayehu Behulu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6,16-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,16-18 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 6, 16, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich (U.S. Patent No. 5,970,403) in view of Souissi (U.S. Patent No. 6,556,817).

Regarding claims 1 and 16, Alperovich discloses in a cellular mobile telecommunications system (figures 1, 2), a method of charging for a call, comprising the steps of: maintaining a record of channel usage for areas comprising of one or more cell sites/sectors (figure 1, 2, column 2, lines 1 – 9), storing thresholds (column 3, lines 21-33, column 4, lines 41-43), responsive to detection an occupancy of radio channels in an area and notify mobile stations in area for call origination at less than normal charge (column 2, lines 3 – 8 and column 2, lines 20-27), and making billing record for a call for which the charge is to be lower, billing record comprising information to allow billing processor to make a lower charge for a call (column 4, lines 5-8 and lines 16-20), notify mobile stations in area that calls can now be completed at normal charge (column 4, lines 21-24). However, Alperovich fails to disclose a first threshold and a second threshold, second threshold higher than first threshold, responsive to a subsequent detection that occupancy for area is now above second. But, Souissi discloses a first threshold and a second threshold, second threshold higher than first threshold; responsive to a subsequent

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detection that occupancy for area is now above second (column 5, lines 25-48).

Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Alperovich (U.S. Patent No. 5,970,403) with Souissi (U.S. Patent No. 6,556,817) so that the system is cost-effective and increases revenue by adding new users by offering flexibility, and charging the fee accordingly (as suggested by Souissi, column 1, lines 9-65).

Regarding claim 6, the combination of Alperovich and Souissi disclose the method of claim 1, further comprising the step of: a service provider defining cell sites/or sectors and thresholds of area (see Souissi column 5, lines 25-48, note: the office interprets service provider as the system operator).

Regarding claim 21, the combination of Alperovich and Souissi disclose the apparatus of claim 16, wherein processor means are further operative under the control of program for defining cell sites and or sectors, and thresholds of area in response to data provided by a service provider (see Souissi column 5, lines 25-48, note: the office interprets service provider as the system operator).

2. Claims 2, 3, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich (U.S. Patent No. 5,970,403) and Souissi (U.S. Patent No. 6,556,817) as applied to claim 1 above, and further in view of Roach (U.S. Patent No. 5,526,401).

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Regarding claims 2, 17 the combination of Alperovich and Souissi discloses the method of claim 1 and apparatus of claim 16 respectively, and the lower cost offered (column 3, lines 50-63, column 5, lines 16 – 21 and 28-31). However, the combination of Alperovich and Souissi fail to disclose control of only a subset of mobile stations served by cellular mobile telecommunications systems. But, Roach discloses control of only a subset of mobile stations served by cellular mobile telecommunications systems (column 23, lines 30-38). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Alperovich (U.S. Patent No. 5,970,403) and Souissi (U.S. Patent No. 6,556,817) with Roach (U.S. Patent No. 5,526,401) so that the system has control on users by allowing selective communication (as suggested by Roach).

Regarding claims 3, 18 the combination of Alperovich, Souissi and Roach discloses the method of claim 2 and apparatus of claim 17 respectively, wherein the subset of mobile stations (see Roach, column 23, lines 30-38) served is defined by a class of service stored in a MSC serving (see Alperovich, figure 1, number 30, column 3, 160, lines 21-33 column 4, lines 25-39).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-3, 6, 16-18, 21 have been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alemayehu Behulu whose telephone number is 703-305-4828. The examiner can normally be reached on 8 AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB



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